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CRL.O.P.(MD)NO.15490 OF 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2019

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P. (MD)No.15490 of 2016 and
Crl.M.P. (MD)Nos.7335 of 2016 & 9769 of 2019

1. Ganesan
2. K.Vellai Ganeshan ... Petitioners/Accused Nos.1 and 2

Vs.

R.Sivasamy ... Respondent/Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to quash the impugned private complaint in S.C.No.20 of 2019 on the file of the Principal District Judge, Ramanathapuram.

(Prayer amended as per order dated 12.11.2019 made in Crl.M.P(MD) No.9770 of 2019 & 9769 of 2019 in Crl.O.P(MD)No.15490 of 2016)

For Petitioners : Mr.K.P.Sankara Kumara Kurupara

For Respondent : Mr.D.Balamuruga Pandi

* * *

O R D E R

The petitioners are figuring as accused in S.C.No.20 of 2019 on the file of the Human rights Court, Principal District and Sessions Judge, Ramanathapuram, for the offences under Sections 294 (b), 341 and 506(ii) of I.P.C.

2. It is a private complaint instituted by the respondent herein. The case was originally filed before the Judicial Magistrate No.II, Ramanathapuram and later it was committed to the Human Rights Court. To quash the same, this criminal original petition has been filed.

3. The learned counsel appearing for the complainant submitted that the trial in this case has already commenced and that therefore, this Court should dismiss the quash petition. He would also point out that in the complaint, there are some *prima facie* averments against the petitioners herein and that therefore this Court will not be justified in invoking the inherent powers of this Court.



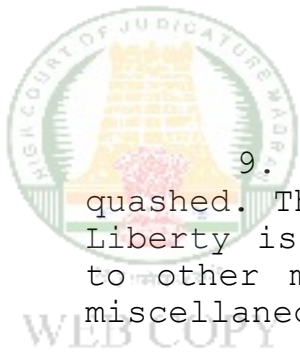
4. This criminal original petition was filed way back in the year 2016. Only during the pendency of these proceedings, the trial had commenced on 25.04.2019. The chief examination of the complainant is of course over. But then, he is yet to be cross examined. In as much the trial had commenced only during the pendency of this criminal original petition, I am not inclined to dismiss this criminal original petition on this technical ground.

5. I carefully went through the contents of the complaint. It appears that there was a dispute regarding survey and measurement.

6. It is seen from the complaint that the property comprised in Survey No.451/1A in Pattinamkathan Village is being enjoyed by the complainant herein in the capacity of Power Agent of the owners of the property. The complainant was having a civil dispute with one Nijam Khan. The allegation of the respondent herein is that on 10.10.2010 at about 11.30 a.m., a team of police headed by the first petitioner herein came to the spot and asked the rival party to install survey stones. The complainant is said to have lodged his protest by pointing out that he had filed a Caveat petition before the District Munsif Court, Ramanathapuram and that he was in possession of the property. It was not open to the police to interfere in a civil dispute. But the respondent would allege that the petitioners abused him and also threatened him by brandishing his service pistol. When a friend of the respondent, namely, Murugesan strongly protested, the first petitioner is said to have physically assaulted him. This is the substance of the respondent herein.

7. On a careful perusal of the entire complaint, one can say that it was only Murugesan who was allegedly assaulted. The complaint was lodged two months later. But even in the said complaint, what was enclosed as documentary evidence was a photo copy of the representation dated 11.10.2010 addressed to the Superintendent of Police and acknowledgement card. No wound certificate was enclosed. It is beyond dispute that the complainant herein was not at all assaulted or injured. Murugesan did not file the impugned complaint. The respondent herein was not taken to the police station. Some altercation had occurred in the field in question. I am not able to discern any element of human rights violation. Therefore the Court below will not have the jurisdiction to try the complaint lodged by the respondent herein. Even though the complaint was under Section 323 of I.P.C. also, cognizance of the offences was taken only in respect of Sections 294(b), 341 and 506(ii) of I.P.C.

8. Since the proceedings under the Human Rights Act are unwarranted, continuance of the impugned prosecution will be an abuse of legal process.



9. In this view of the matter, the impugned proceedings stand quashed. The criminal original petition stands allowed, accordingly. Liberty is however given to the respondent herein to take recourse to other measures in accordance with law. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

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Sub Assistant Registrar(CS)

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To:

The Principal District Judge,
Ramanathapuram.

+1 CC to Mr.K.P.SANKARA KUMARA KURUPARAN, Advocate (SR-104752[F]
dated 12/12/2019)

+1 CC to Mr.D.BALAMURUGAPANDI, Advocate (SR-104963[F] dated
13/12/2019)

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12.12.2019

VB(20.02.2020) 3P 4C